

2015 HR & Benefits Compliance Alert



IRS Notice Clarifies Numerous ACA Issues, Including Opt-Out Payments

The IRS has released a 31-page Notice ([2015-87](#)) that provides guidance on the application of the ACA's market reforms to group health plans and other employer-sponsored arrangements such as health reimbursement arrangements (HRAs) and employer payment plans (arrangements that reimburse premiums for individual health insurance policies).

The Notice also clarifies several issues relevant to employers subject to the ACA's employer mandate, including:

- Identification of employee contributions when employers offer HRAs, flex credits, opt-out payments, or fringe benefit payments required under the Service Contract Act
- Application of the adjusted 9.5% affordability threshold to the "affordability" safe harbors (W-2, Rate of Pay, and Federal Poverty Level)
- Indexing of employer mandate penalties starting in 2015
- Whether employees on short- or long-term disability have "hours of service"
- Penalty relief for "good faith" ACA reporting for 2015
- Treatment of Tricare as an offer of employer-sponsored coverage

The Notice contains significant guidance on many facets of the ACA. We will review it over the coming days and will release additional communication pieces once we fully digest this new guidance.

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